



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

FEB - 8 2012

The Honorable Geoff Davis  
Member, U. S. House of Representatives  
300 Buttermilk Pike, Suite 101  
Fort Mitchell, Kentucky 41017

Dear Congressman Davis:

Thank you for your letter of January 13, 2012, to David McIntosh, former Associate Administrator for the Office of Congressional and Intergovernmental Relations of the U.S. Environmental Protection Agency. Your letter transmitted the concerns of your constituent, Mr. Kelley W. Leach, regarding a proposal by Louisville Gas & Electric (LG&E) to construct a 218-acre coal ash landfill near his home in Trimble County, Kentucky. Your letter was referred to my office for response.

In June 2010, the EPA proposed to regulate the disposal of coal combustion residuals (CCRs) generated from the combustion of coal at electric utilities and by independent power producers. To date, the Agency has received over 450,000 comments on the proposed rulemaking for managing CCRs, and the rulemaking process is ongoing. The EPA does not currently regulate CCRs; instead, that responsibility falls upon EPA-approved state solid waste permitting programs. The EPA approved the Kentucky Department for Environmental Protection's municipal solid waste landfill permitting program on July 1, 1993.

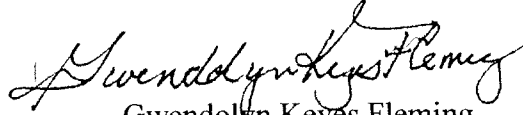
My staff has contacted solid waste permitting officials with KDEP and discussed details of LG&E's proposal. On May 6, 2011, KDEP received an application from LG&E for the Special Waste Landfill Permit. As accurately referenced in Mr. Leach's letter to you, KDEP learned of the presence of a cave in the proposed disposal fill area during a public meeting on October 6, 2011, and subsequently confirmed the cave's location during a site visit on November 15, 2011. Citing provisions of the Kentucky Cave Protection Act that protects naturally occurring organisms found within any cave, KDEP issued a Technical Notice of Deficiency (NOD) to LG&E on November 30, 2011. A copy of the NOD is enclosed with this letter. Essentially, KDEP will not continue review of LG&E's application until it is modified in a manner that appropriately indicates adherence to the Commonwealth's Cave Protection Act. LG&E has until May 31, 2012, to respond to KDEP's NOD.

Mr. Leach's letter mentions that he was told by an LG&E representative that the company plans to dynamite the cave and other karst areas of the proposed landfill site. The EPA Region 4 has forwarded related information to KDEP Solid Waste Branch personnel for their consideration in the future. This information pertains to the Federal Cave Protection Act of 1988, and the potential that federally-protected species, such as certain bats, could conceivably reside in caves located in Trimble County, Kentucky.

For additional details about the status of the application and the permit process, Mr. Leach should contact Mr. Ron Gruzesky, Manager of KDEP's Solid Waste Branch, at (502) 564-6716.

We appreciate your conveyance of Mr. Leach's concerns involving protection of the environment in Trimble County, Kentucky. If you have questions or need additional information from the EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in cursive script, reading "Gwendolyn Keyes Fleming".

Gwendolyn Keyes Fleming  
Regional Administrator

Enclosure

cc: R. Bruce Scott, Commissioner  
KDEP

Steven L. Beshear  
Governor



Leonard K. Peters  
Secretary

**ENERGY AND ENVIRONMENT CABINET**

Division of Waste Management  
200 Fair Oaks, 2<sup>nd</sup> Floor  
FRANKFORT, KY 40601  
TELEPHONE: 502-564-6716  
FACSIMILE: 502-564-3492  
waste.ky.gov

November 30, 2011

Mr. Paul Puckett  
LG&E and KU Services Company  
220 West Main Street  
Louisville, Kentucky 40202

**Certified Mail No. 7011 0470 0000 9041 2837**

RE: Technical Notice of Deficiency (NOD) No.1  
Application for a Special Waste Landfill Permit  
Trimble County Generating Station  
Agency Interest No. 4054  
Activity ID No. APE20110002  
Trimble County

Dear Mr. Puckett:

The Kentucky Division of Waste Management (DWM), Solid Waste Branch has started review of your application for a Special Waste Landfill at the Trimble County Generating Station, received on May 6, 2011. DWM has found your application to be deficient in the following respect:

1. During the public meeting on October 6, 2011, DWM was informed about the presence of a cave in the proposed disposal fill area. The cave's location was confirmed by DWM personnel during a site visit on November 15, 2011. A review of historic files produced a November 1979 hydrogeologic investigation document (available upon request) identifying the cave as Wentworth Cave. Pursuant to the Kentucky Cave Protection Act (KRS 433.871 – 433.885), it is unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave. In accordance with 401 KAR 45:030 Sections 3 and 4, DWM is unable to issue a permit inconsistent with state law.

In order for review of your application to continue, you must modify it to eliminate the deficiency noted above and verify compliance with all sections of the Kentucky Cave Protection Act. Revisions must be accompanied by an updated certification statement and correspondence describing all changes. Include revised copies for insertion into the originally submitted

Mr. Paul Puckett  
November 30, 2011  
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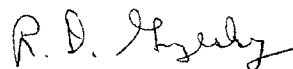
AI 4054  
Activity ID No. APE20110002

document. All correspondence related to this permitting action should reference Agency Interest No. 4054 and Activity ID No. APE20110002. A response to this NOD is to be submitted to this office by May 31, 2012 at the following address:

Division of Waste Management  
Solid Waste Branch, Second Floor  
200 Fair Oaks Lane  
Frankfort, Kentucky 40601

Should you have any questions or would like to schedule a meeting regarding this matter, please contact me at (502) 564-6716, extension 4664.

Sincerely,



Ronald D. Gruzesky, P.E.  
Manager, Solid Waste Branch

RDG/lrb

c: Mr. Gary F. Brendel, P.E.  
GAI Consultants, Inc.  
385 East Waterfront Drive  
Homestead, PA 15120